

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES *ex rel.* JONATHAN
D'CUNHA, M.D.

Plaintiffs,

v.

JAMES D. LUKETICH, M.D., THE
UNIVERSITY OF PITTSBURGH
MEDICAL CENTER, AND
UNIVERSITY OF PITTSBURGH
PHYSICIANS,

Defendants.

CASE NO. 19-495

DISTRICT JUDGE CATHY BISSOON

MOTION FOR VOLUNTARY DISMISSAL
OF NON-INTERVENED CLAIMS

Relator Jonathan D'Cunha, M.D., by and through his undersigned counsel, moves pursuant to Fed .R. Civ. P. 41(a)(2) for an order granting voluntary dismissal of his non-intervened claims and states as follows:

1. The United States filed a Complaint in Partial Intervention in this *qui tam* case on September 2, 2021.
2. The Relator moves to voluntarily dismisses without prejudice the claims in his First Amended Complaint in which the United States has not intervened, except for Relator's separate claims under 31 U.S.C. § 3730(d) for attorney fees, costs and expenses and a Relator's share, which he does not seek to dismiss.
3. The Relator seeks an order under Rule 41(a)(2) because under the False Claims Act, 31 U.S.C. § 3729, *et seq.*, a *qui tam* claim may be dismissed only with the consent of the United States and the Court. 31 U.S.C. §3 730(b)(1).

4. The Court's August 31 Order unsealing this action states that the Court would seek the United States' written consent to any dismissal or resolution of any of the non-intervened claims. August 31 Order (Dkt. 62), at 5.

5. Relator has informed counsel for the United States of this motion and represents that counsel for the United States are prepared to file written consent to the dismissal of the non-intervened claims.

6. Accordingly, Relator seeks an order granting voluntary dismissal without prejudice of his non-intervened claims, except his separate claims under 31 U.S.C. §3730(d) which shall not be dismissed and shall be preserved.

Respectfully submitted,

Dated: September 29, 2021

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Counsel for Qui Tam Plaintiff-Relator

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of September, 2021, true and correct copies of the foregoing Relator's Motion for Voluntary Dismissal of Non-Intervened Claims and proposed order were filed electronically using the CM/ECF filing system, which will automatically send email notification of the filing to each counsel of record.

/s/ Andrew M. Stone
Andrew M. Stone

Counsel for Relator